

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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BAY STATE GAS COMPANY)	D.T.E. 02-73
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**MOTION FOR PROTECTIVE ORDER
OF BAY STATE GAS COMPANY**

I. INTRODUCTION

Pursuant to 220 CMR 1.04(5)(a), Bay State Gas Company (“Bay State” or “Company”) hereby moves that the Department of Telecommunications and Energy (“DTE” or “Department”) grant protective treatment pursuant to G.L. c. 25, § 5D to the information provided in response to information request AG 1-8. In support of its request, Bay State states the following.

II. THE INFORMATION FOR WHICH BAY STATE SEEKS PROTECTION FROM PUBLIC DISCLOSURE FALLS WITHIN THE EXEMPTIONS OUTLINED IN G.L. c. 25, § 5D

A. Standard of Review

Pursuant to G.L. c. 25, § 5D, the Department is authorized to protect from public disclosure “trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings.” The Department has developed a three-part standard for assessing requests for protective treatment submitted pursuant to c. 25, § 5D. First, the information for which protection from disclosure is sought must constitute “trade secrets, [or]

confidential, competitively sensitive or other proprietary information.” Second, the party seeking protection from disclosure must overcome the statutory presumption that the public is benefited by disclosure of that information by “proving” the need for non-disclosure. Finally, the Department will protect only so much of the information as is necessary to meet the established need. See, e.g., Western Massachusetts Electric Company, D.T.E. 99-56 (1999); Dispatch Communications of New England d/b/a Nextel Communications, Inc., D.P.U. 95-59-B/95-80/95-112/96-13, September 2, 1997 Procedural Order. Appropriate considerations with respect to the public interest issue include an assessment of the interests at stake, the likely harm that would result from public disclosure of information, and the public policy implications of such disclosure. See, e.g., Berkshire Gas Company, D.P.U. 93-187/188/189/190 (1994); Boston Gas Company, D.P.U. 92-259 (1993), Essex County Gas Company, D.P.U. 96-105 (1996).

B. Items for Which Protective Treatment is Sought

Bay State seeks Protective Treatment of the information provided as an attachment to AG 1-8, which includes financial information for affiliated companies that are unregulated.

C. Bay State Has Met the Department’s Standard for Protective Treatment

The financial information provided for Bay State’s unregulated affiliates is not otherwise publicly available and is competitively sensitive information. These entities operate in unregulated markets and disclosure of such information could be harmful to them. Further, Bay State’s affiliates are not parties to this proceeding and therefore cannot make the request for protective treatment.

III. CONCLUSION

WHEREFORE, for the reasons contained herein, Bay State respectfully requests that the Department grant Bay State Gas Company's Motion for Protective Treatment of the information provided as an attachment to AG information request 1-8.

Respectfully submitted,

BAY STATE GAS COMPANY

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